

The 22nd December, 1994

No. 14/13/87-6Lab./1010.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Meham Co-operative-Sugar Mills Ltd. Meham versus Ranbir :—

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 634 of 1992

between

SHRI RANBIR, S/O SHRI V. S. SINGAL, ADVOCATE, DISTRICT COURT, ROHTAK

.. Workman

and

THE MANAGEMENT OF M/S. MEHAM CO-OPERATIVE SUGAR MILLS LTD., MEHAM

Present:

Shri V. S. Singal, Authorised Representative for the workman.

Shri H. S. Dangi, for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties named above to this Court, for adjudication,—vide Labour Department Endorsement No. SOV/Roh/24-92/17948—53, dated the 6th April, 1992:—

Whether the termination of services of Shri Ranbir Singh, is justified and in order? If not, to what relief he is entitled?

2. The workman and the management were summoned. The workman appeared and filed the claim statement that he was working with the management as Peon on daily wages since 13th September, 1989 and after that the workman was appointed on 1st June, 1991 on *ad hoc* basis of the same post. The work and conduct of the workman had always been quiet satisfactory, but the management terminated the service of the workman on 29th July, 1991 without assigning any reason or reasonable cause and even then the management has passed the order of further of service i. e. to be effected 1st August, 1991 for 89 days but the management illegally terminated the services of the workman before completed 89 days of his service. The workman has completed more than 240 days of his service in 12 calendar months, therefore he is entitled to be heard before giving him any sort of punishment and therefore the above said termination is absolutely illegal against the provision of law and also against the principal of natural justice. As at the time of termination no notice was given to him, no enquiry was held, no seniority list was displaced. At the time of termination, no notice was sent to the Government in prescribed form, no notice pay was given to the workman and no retrenchment compensation was paid to the workman, therefore, the management have contravene the Section 15-F of the Industrial Dispute Act and mandatory provision of Chapter V-A of the Industrial Dispute Act. The management has also appointed some other person in place of workman and some junior person are also still working with the respondent/-management. The management has not adopted the mandatory provisions of last come first go, therefore, the management have contravened the Section 25-G, H & N of the Industrial Dispute Act. Hence this claim petition was filed that he to be reinstated with full back wages alongwith continuity of service.

3. The management has filed the written statement that the claim petition of the workman is not maintainable in the present form; that the workman has no *locus standi* to bring the present petition; that there is no cause of action accrued to the workman; that the claim petition has not been verified as required by the law; that the workman is estopped by his act and conduct to bring the present claim petition against the answering management. The workman was engaged in the said labour in view of his verbal agreement that his services are to be brought to an end on non-availability of the work in the establishment. The workman has not completed continuous service as mentioned in the claim petition and hence claim statement is liable to be dismissed.

4. Replication was filed by the workman. On the pleadings of the parties, the following Issues were framed :—

- (1) As per term of reference ?
- (2) Whether the claim statement is not maintainable in the present form ?
- (3) Whether the workman has no *locus standi* and cause of action ?
- (4) Whether the claim statement has not been properly verified? If so, to what effect ?
- (5) Whether the workman is estopped by his act and conduct to file the case ?
- (6) Relief ?

5. My findings on the above issues with reasons thereof are as under :—

Issue No. 1 :

6. The workman has examined Shri Ram Phal Clerk of the respondent as WW-1 and workman has come into witness-box as WW-2 and closed his evidence. The management has examined Joginder Singh Clerk respondent who deposed that he could not say anything regarding the work of the applicant as he was on daily wages. Evidence of the management was thereafter closed by Court orders.

7. WW Ram Phal made statement that the workman had worked from 13th September, 1989 to 27th September, 1991 as Peon. From the statement of WW-1 is proved that the workman had worked for more than 240 days in a year.

8. It is proved from the evidence of both the parties that the workman had been served the respondent for more than 240 days in a year as required under section 2 (oo) of the Industrial Dispute Act that if the workman had worked for more than 240 days in a year he can be retrenched as provided Under Section 25-F of the Industrial Dispute Act but Section 25-F had not been complied with. The workman was also not given any notice, notice pay or retrenchment compensation etc. as required by Section 25-F of the Industrial Dispute Act. Hence I am of the view that the termination done is in illegal manner and that can not be sustained hence I decide this issue in favour of the workman.

Issues No. 2 to 5 :—

9. All these issues are not pressed or argued by the parties, hence I decide all these issues against the management.

Issue No. 6 (RELIEF) :—

10. In view of my findings on the above issues I accept the reference petition of the workman and I order that the workman is liable to reinstated on the job with continuity of service but with 50% (FIFTY) of back wages. The reference is answered and returned accordingly. However, the parties are left to bear their own costs.

The 16th November, 1994.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. reference 634-92/2503, dated the 23rd November, 1994.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.